

DECISION
TALBOT COUNTY BOARD OF APPEALS
Appeal No. 11-1567

Pursuant to due notice, a public hearing was held by the Talbot County Board of Appeals at the Bradley Meeting Room, Court House, South Wing, 11 North Washington Street, Easton, Maryland, beginning at 7:30 p.m., October 24, 2011 on the Application of **PAUL AND RHONDA S. KASE** (Applicant). The Applicant is seeking a variance of the 100' side yard setback to 72' to construct an 18' x 32' horse stable to include a lean-to and storage shed. The request is made in accordance with Chapter 190, Zoning, Article III, §190-16, §190-96 and Article IX, §190-182 of the Talbot County Code (Code). The property is located at 29276 Dogwood View Road, Cordova, Maryland 21625 in the Agricultural Conservation/Rural Conservation (AC/RC) Zone. The property owners are Paul and Rhonda Kase and the property is shown on Tax Map 10 Grid 6 Parcel 122, Lot 13.

Present at the hearing were Board of Appeals members Paul Shortall, Jr., Chairman; Phillip Jones, Vice Chairman; Rush Moody; Betty Crothers; and John Sewell. Anne C. Ogletree was the attorney for the Board of Appeals (the Board).

It was noted for the record that all members of the Board had visited the site.

The following exhibits were offered and admitted into evidence as Board's Exhibits as indicated:

1. Application for a Non-Critical Area Variance
2. Copy of tax map with subject property highlighted
3. Notice of Public Hearing
4. Newspaper Confirmation
5. Notice of Hearing & Adjacent Property Owners List attached
6. Non-Critical Area Variance Standards (Questions and Answers)
7. Staff Memo prepared by Brett Ewing, Planner I, dated 09/08/11
8. Sign Maintenance Agreement
9. Site Plan
10. Floor Plan
11. Independent Procedures Disclosure and Acknowledgment Form.

12. Aerial Photo
13. Photos of Existing Shed (2 pages)
14. Impervious Calculation Worksheets (2 pages)
15. Notice from Adjacent property owners, Mr. and Mrs. Hunt stating their approval of the variance
16. Critical Area Coverage Computation Worksheet

All potential witnesses were sworn. Rhonda Kase, one of the Applicants, testified that her daughter was an avid equestrian and wished to keep her pony at the Kase residence. The subdivision covenants have expired so the Kases wished to apply for a building permit for a shed with overhang and storage for hay, feed and tack. They were advised that a variance would be required before a permit could issue. She explained that the lot is long and narrow, and had an even width of 200'. It would thus be impossible to place a building so that there was a 100' foot setback on each side. The occupants of the new structure would be a pony and miniature donkey. Both are family pets. By positioning the structure lengthwise on the property, the variance required would reduce the side yard to a 72' setback. Ms. Kase pointed out that there was no shade in the pasture area, and the proposed lean-to would enable the animals to enjoy a shaded area without disturbing neighbors. She felt the requested variance was the minimum necessary to complete the project. She also advised the Board that the neighbors knew about the proposed construction and were in support.

Mr. Albert Howeth, 29275 Dogwood View Road, Cordova, Maryland 21625 testified in favor of the application. He owns the property directly in front of the Kase residence. . He was aware of the proposed construction and believed it would actually improve the neighborhood.

Mr. Murray Hunt and Mrs. Carol Hunt own the property at 29292 Dogwood View Road, Cordova, Maryland 21625. They adjoin the property of the Applicant, and the proposed structure will be located closest to their property line. They both testified they had no objection to the grant of the variance and saw no harm to their property.

No one testified in opposition to the proposed variance.

Mr. Shortall noted that the Applicants had provided very clear answers to the questions on the Non-Critical Area Variance Standards. He then opened discussion, asking the Board

members present for additional observations or concerns.

Mr. Jones commented that in addition to its long narrow shape, the use of the lot was also constrained by the location of the septic system and sewage reserve area. Mr. Jones opined that the side yard setback was for the protection of the neighbors from nuisance, and given the size of this lot, 3.08 acres, and the number of animals involved, he did not believe there would be any nuisance issues. He also pointed out that had the lot been smaller in size, under 3 acres, the side yard setback would only have been 75'. The other members agreed with his comments.

There being no further discussion, the Board made the following findings of fact based on the Applicant's testimony and the Applicant's answers to the Non-Critical Area Variance Standards Questions:

1. There are unique physical characteristics of this lot, namely, it's 200' width and long narrow configuration result in practical difficulties which make the literal enforcement of the provisions of the ordinance an unreasonable hardship on the Applicant's desire to develop the property;
2. The conditions which caused the need for the variance are the result of the lot's configuration and are not caused by the actions of the Applicant;
3. The Applicant did not know of the zoning side setback requirements when they purchased the property, but are pursuing this application for the purpose of housing family pets;
4. The proposed structure and the requested variance will not be detrimental to neighboring properties;
5. The variance requested is the minimum necessary to place the proposed structure on the lot, and will result in a reduction of the side yard adjoining Lot 14 by 28'.

Mr. Shortall then asked if any of the members had a motion.

Mr. Jones made a motion that the variance be approved as the Applicant had met all the required criteria. The motion was seconded by Mr. Moody and carried with a vote of 5-0.

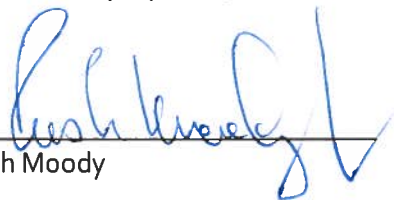
HAVING MADE THE FOREGOING FINDINGS OF FACT AND LAW, IT IS, BY THE TALBOT COUNTY BOARD OF APPEALS,

RESOLVED, that the Applicant, PAUL and RHONDA KASE (Appeal No.11-1567) are **GRANTED** the requested variance consistent with the evidence presented to the Board of Appeals, by vote as previously noted.

GIVEN OVER OUR HANDS, this 7th day of November, 2011

TALBOT COUNTY BOARD OF APPEALS


Paul Shortall, Jr., Chairman


Rush Moody


John Sewell


Philip Jones, Vice Chairman


Betty Crothers